

Case 7:15-cv-00639-JPJ-RSB Document 7 Filed 12/01/15 Page 1 of 3 Pageid#: 22

“[A] prisoner cannot use § 1983 to obtain damages where success *would necessarily* imply the unlawfulness of a (not previously invalidated) conviction or sentence.” *Wilkinson v. Dotson*, 544 U.S. 74, 81 (2005) (citing *Heck v. Humphrey*, 512 U.S. 477 (1994)). In other words, “a state prisoner’s § 1983 action is barred (absent prior invalidation) — no matter the relief sought (damages or equitable relief), no matter the target of the prisoner’s suit (state conduct leading to conviction or internal prison proceedings) — *if* success in that action would necessarily demonstrate the invalidity of confinement or its duration.” *Wilkinson*, 544 U.S. at 81-82. Thus,

to recover damages for . . . harm caused by actions whose unlawfulness would render a conviction or sentence invalid, a § 1983 plaintiff must prove that the conviction or sentence has been reversed on direct appeal, expunged by executive order, declared invalid by a state tribunal authorized to make such determination, or called into question by a federal court’s issuance of a writ of habeas corpus. . . .

Heck, 512 U.S. at 486-87 (footnote omitted). Absent such a showing, the § 1983 action must be dismissed. *Id.* at 487.

If Mines could prove that the records officer took actions that caused Mines to be denied credit against his prison term for jail time he had served before sentencing, such a finding would necessarily imply that the currently calculated length of Mines’s term of confinement is in error. Because Mines offers no evidence that this term of confinement has been overturned, expunged, or otherwise invalidated by any state authority or court, any § 1983 cause of action

for damages which he may have against anyone for allegedly wrongful actions that contributed to the challenged calculation of the term is barred. *See, e.g., Royal v. Durison*, 254 F. App'x 163, 165 (3d Cir. 2007) (unpublished) (holding that *Heck* barred state inmate's claim that miscalculation of jail credits caused him to be incarcerated beyond statutory maximum sentence); *Hassler v. Carson Cty.*, 111 F. App'x 728 (5th Cir. 2004) (unpublished) (holding *Heck* barred prisoner's claim for damages based on officials' alleged failure to credit him with jail time served). For the stated reasons, I will dismiss Mines's claims without prejudice under § 1915A(b)(1) as frivolous.

A separate Final Order will be entered herewith.

DATED: December 1, 2015

/s/ James P. Jones
United States District Judge